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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,519	07/23/2003	Sanjay Kotha	US 1330/02	7440

7590

08/15/2005

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EXAMINER
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PATTERSON, MARIE D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/624,519	Applicant(s) KOTHA ET AL	
	Examiner Marie Patterson	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 8, 10-17, 19-32, 34-40, 42-49, 51-61, 63-69, 71-78, 80-87, and 89-100 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10-17, 19-32, 34-40, 42-49, 51-61, 63-69, 71-78, 80-87 and 89-100 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/21, 6/23, 5/20</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7, 8, 10-17, 19-26, 95, and 98-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen '815 in view of Fuchs (6527972).

Christensen '815 shows a cushion substantially as claimed except for the exact particles in the fluid. Fuchs teaches that it is well known to have bilayers or multiple layers of coatings on particles (column 4 lines 48-53 and column 7 lines 50-60) and teaches the use of the claimed materials and size of particles as claimed.. It would have been obvious to use the magnetorheological material taught by Fuchs for the fluid and/or particles in the cushion of Christensen '815 to minimize the variance in force required by the device over a given temperature range, i.e. to reduce the effect of temperature change on the performance of the device.

In reference to claim 95, it is well known to use particles of differing diameters in a magnetorheological fluid.

3. Claims 27-32, 34-40, 42-49, 51-61, 63-69, 71-78, 80-87, 89-94, 96, and 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demon (5813142) in view of Christensen '815 and Fuchs (6527972).

Demon shows a cushioned shoe sole with a bladder which is responsive to a control system (300) which responds to sensors (100) to change the support provided by the

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bladders substantially as claimed except for the bladder and control system being magnetorheological. Christensen '815 teaches the use of a magnetorheological system for responding to forces and weight by adjusting the support provided by a bladder. Fuchs teaches that it is well known to have bilayers or multiple layers of coatings on particles (column 4 lines 48-53 and column 7 lines 50-60) and teaches the use of the claimed materials and size of particles as claimed.. It would have been obvious to use the magnetorheological material taught by Fuchs for the fluid and/or particles in the cushion of Christensen '815 and to use magnetorheological fluid and system as taught by Christensen '815 in the shoe of Demon to reduce the moving mechanical elements of the shoe and to make the shoe sole system smaller.

In reference to claims 96 and 97, it is well known to use particles of differing diameters in a magnetorheological fluid.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-5, 7, 8, 10-17, 19-32, 34-40, 42-49, 51-61, 63-69, 71-78, 80-87, and 89-100 have been considered but are moot in view of the new ground(s) of rejection.

1. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Other useful information can be obtained at the PTO Home Page at [www.uspto.gov](http://www.uspto.gov).

In order to avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly into the Center at (572)272-8300 **(FORMAL FAXES ONLY)**. Please identify Examiner Marie Patterson of Art Unit 3728 at the top of your cover sheet.

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Any inquiry concerning the MERITS of this examination from the examiner should be directed to Marie Patterson whose telephone number is (571) 272-4559. The examiner can normally be reached from 6AM - 4PM Mon-Wed.

A handwritten signature in black ink, appearing to read 'Marie Patterson', with a stylized flourish at the end.

Marie Patterson  
Primary Examiner  
Art Unit 3728